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Permit No.: WA-005115-2
Issuance Date: July 25, 2005
Effective Date: September 1, 2005
Expiration Date: August 31, 2010

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
WASTE DISCHARGE PERMIT NO. WA-005115-2

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
CENTRAL REGION OFFICE
YAKIMA, WASHINGTON 98902

In compliance with the provisions of
The State of Washington Water Pollution Control Law
Chapter 90.48 Revised Code of Washington
and
The Federal Water Pollution Control Act
(The Clean Water Act)
Title 33 United States Code, Section 1251 et seq.

SDS LUMBER COMPANY
PO BOX 266
BINGEN, WA 98605

<u>Facility Location:</u> State Highway 14 Bingen, WA 98605	<u>Receiving Water:</u> Columbia River, River Mile 170
<u>Waterbody I.D. No.:</u> WA-CR-1020	<u>Discharge Location:</u> Outfall #001 Latitude: 45° 42' 38" N Longitude: 121° 28' 22" W
	Outfall #002 S.E. Corner Latitude: 45° 42' 38" N Longitude: 121° 28' 16" W
<u>Industry Type:</u> SIC Codes: 2421 - General Sawmill and Planing 2436 - Softwood Veneer and Plywood 2499 - Non-Classified Wood Products 4911 - Electric Generation	

is authorized to discharge in accordance with the special and general conditions which follow.

G. Thomas Tebb, L.E.G.
Section Manager
Water Quality Program
Central Region Office
Washington State Department of Ecology

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SUMMARY OF PERMIT REPORT SUBMITTALS

Refer to the Special and General Conditions of this permit for additional submittal requirements.

Permit Section	Submittal	Frequency	First Submittal Date
S2.D.	Pump Power Curve	Annually	January 31, 2006
S3.A.	Discharge Monitoring Report	Monthly	October 15, 2005
S3.E.	Noncompliance Notification	As necessary	As necessary
S4.	Draft Sampling and Analysis Plan Log Deck Climate Control Water	1/permit cycle, updates submitted as necessary	December 1, 2005
S5.C.	Solid Waste Control Plan Update	1/permit cycle	August 1, 2006
S5.C.	Modification to Solid Waste Plan	As necessary	As necessary
S6.	Spill Plan	updates submitted as necessary	As necessary
S7.A.	Outfall Renovation Plan	1/permit cycle	January 31, 2007
S7.B.	Notice of Outfall Renovation Completion	1/permit cycle	January 31, 2008
G1.	Signature Authorization/Delegation	As necessary	As necessary
G7.	Application for Permit Renewal	1/permit cycle	August 31, 2009
G8.	Notice of Permit Transfer	As necessary	As necessary

SPECIAL CONDITIONS

S1. DISCHARGE LIMITATIONS

All discharges and activities authorized by this permit shall be consistent with the terms and conditions of this permit.

The discharge of any of the following pollutants more frequently than, or at a level in excess of, that identified and authorized by this permit shall constitute a violation of the terms and conditions of this permit.

A. Non-Contact Cooling Water Discharge Limitations: Outfall 001

The Permittee is authorized to discharge non-contact cooling water at the permitted location subject to complying with the following limitations:

EFFLUENT LIMITATIONS: OUTFALL # 001		
Parameter	Average Monthly ^a	Maximum Daily ^b
Flow in MGD	Not Applicable	25
Temperature Rise ° C ^c	6.7	8.3
pH Std. Units ^d	6 to 9	
^a The average monthly effluent limitation is defined as the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.		
^b The maximum daily effluent limitation is defined as the highest allowable daily discharge. The daily discharge means the discharge of a pollutant measured during a calendar day. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day.		
^c Temperature rise is defined as the difference between the temperature of the intake water and the temperature of the water following a single pass through the steam turbine heat exchanger.		
^d Indicates the range of permitted values. After December 31, 1999, when pH shall be continuously monitored via electronic metering, excursions between 6.0 and 5.5, or 9.0 and 9.5 standard units shall not be considered violations provided no single excursion exceeds 60 minutes in duration and the total duration of all excursions in a single calendar month does not exceed 7 hours and 26 minutes. All excursions below 5.5 or above 9.5 shall be violations of this permit's effluent limitations.		

B. Log Deck Climate Control Water: Outfall 002

Beginning on **September 1, 2005** and lasting through **August 31, 2010**, the Permittee is authorized to discharge log yard climate control water at the permitted location.

C. Mixing Zone Descriptions

The maximum boundary of the mixing zone for outfall #001 is defined as follows:

The chronic mixing zone length shall extend in a downstream direction for a distance of 323 feet and 100 feet upstream and a width of 360 feet. The acute mixing zone shall extend downstream for a distance of 32 feet, upstream for a distance of 10 feet and have a width of 162 feet.

S2. MONITORING REQUIREMENTS

A. Monitoring Schedule for Non-Contact Cooling Water: Outfall #001

The Permittee shall monitor Outfall #001 in accordance with the following schedule:

Parameter	Units	Sample Point	Sample Type	Minimum Sampling Frequency
Flow	MGD	Final Effluent	Continuously ^a recorded	Daily
pH	Standard Units	“	“	“
Temperature	Degree Celsius	Intake Water	Grab	1/hour
“	“	Outfall #001	“	“
Temperature Rise ^b	“	NA	Calculation	“

^a Continuous means uninterrupted - except for brief lengths of time for calibration, power failure, or for unanticipated equipment repair or maintenance.

^b “Temperature rise” means the temperature increase the intake water undergoes following one pass through cooling of the turbines.

^c “Calculation” means the temperature of the intake water after one pass through the steam turbine heat exchanger - the temperature of the intake water = temperature rise

B. Monitoring Schedule Log Deck Climate Control Water: Outfall #002

Following approval of the Sampling and Analysis Plan, the Permittee shall monitor Outfall #002 at the start of the climate control watering season. Monitoring shall end one month following the end of the climate control watering season. The Permittee shall monitor in accordance with the following schedule:

Parameter	Units	Sample Points	Sample Type	Minimum Sampling Frequency	Report
Dissolved Oxygen	mg/L	As per approved sampling plan	Grab ¹	1/Month	mg/L
Dissolved Oxygen	Percent	“	Calculation ²	“	Percent of saturation
pH	Standard Units	“	Grab	“	Std. units
Receiving Water Temperature	Degree Celsius	“	Grab	“	Temperature at time of sampling
Barometric Pressure	Inches of Mercury	“	Grab	“	Barometric pressure at time of sampling

¹ “Grab” means an individual sample collected in less than fifteen (15) minutes.

² “Calculation” means the ratio of the dissolved oxygen content (mg/L) measured compared to the potential oxygen carrying capacity of the water in mg/L at ambient temperature and barometric pressure. (See Table in Appendix C)

The Permittee is required to notify the Department any time the dissolve oxygen concentration at the monitoring location falls bellow 85% of dissolved oxygen saturation or the pH is found to be outside the permitted range for three consecutive months. The Department may require the Permittee to modify their monitoring plan either through an administrative order or permit modification.

C. Sampling and Analytical Procedures

Samples and measurements taken to meet the requirements of this permit shall be representative of the volume and nature of the monitored parameters, including representative sampling of any unusual discharge or discharge condition, including bypasses, upsets, and maintenance-related conditions affecting effluent quality.

Sampling and analytical methods used to meet the monitoring requirements specified in this permit shall conform to the latest revision of the *Guidelines Establishing Test Procedures for the Analysis of Pollutants* contained in 40 CFR Part 136 or to the latest revision of *Standard Methods for the Examination of Water and Wastewater* (APHA), unless otherwise specified in this permit or approved in writing by the Department of Ecology (Department).

D. Flow Measurement via Pump Power Curve

The Permittee shall submit to the Department an annual pump power curve. The first power curve is due **January 31, 2006** and **annually** by the **31st of January thereafter**. The power curve shall be calibrated against a timed flow.

E. Laboratory Accreditation

All monitoring data required by the Department shall be prepared by a laboratory registered or accredited under the provisions of, *Accreditation of Environmental Laboratories*, Chapter 173-50 WAC. Flow, temperature, settleable solids, conductivity, pH, turbidity, and internal process control parameters are exempt from this requirement. Conductivity and pH shall be accredited if the laboratory must otherwise be registered or accredited.

Field measurements for dissolved oxygen, pH and temperature analysis by electronic probe and pH will be subject to method verification by the permit manager to check for accuracy.

S3. REPORTING AND RECORDKEEPING REQUIREMENTS

The Permittee shall monitor and report in accordance with the following conditions. The falsification of information submitted to the Department shall constitute a violation of the terms and conditions of this permit.

A. Reporting

The first monitoring period begins on **September 1, 2005**. Monitoring results shall be submitted monthly. Monitoring data obtained during each monitoring period shall be summarized, reported, and submitted on a Discharge Monitoring Report (DMR) form provided, or otherwise approved, by the Department. DMR forms shall be received no later than the 15th day of the month following the completed monitoring period, unless otherwise specified in this permit.

The report(s) shall be sent to:

Permit Data Systems Manager
Department of Ecology
Central Regional Office
15 West Yakima Avenue, Suite 200
Yakima, Washington 98902

Discharge Monitoring Report forms must be submitted monthly whether or not the facility was discharging. If there was no discharge during a given monitoring period, submit the form as required with the words "no discharge" entered in place of the monitoring results.

B. Records Retention

The Permittee shall retain records of all monitoring information for a minimum of 3 years. Such information shall include all calibration and maintenance records and all original recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the Permittee or when requested by the Director.

C. Recording of Results

For each measurement or sample taken, the Permittee shall record the following information: (1) the date, exact place, method, and time of sampling or measurement; (2) the individual who performed the sampling or measurement; (3) the dates the analyses were performed; (4) the individual who performed the analyses; (5) the analytical techniques or methods used; and (6) the results of all analyses.

D. Additional Monitoring by the Permittee

If the Permittee monitors any pollutant more frequently than required by this permit using test procedures specified by Special Condition S2. of this permit, then the results of this monitoring shall be included in the calculation and reporting of the data submitted in the Permittee's DMR.

E. Noncompliance Notification

In the event the Permittee is unable to comply with any of the terms and conditions of this permit due to any cause, the Permittee shall:

1. Immediately take action to stop, contain, and clean up unauthorized discharges or otherwise stop the noncompliance, correct the problem and, if applicable, repeat sampling and analysis of any noncompliance immediately and submit the results to the Department within 30 days after becoming aware of the violation.
2. Immediately notify the Department of the failure to comply.
3. Submit a detailed written report to the Department within 30 days (five days for upsets and bypasses), unless requested earlier by the Department. The report shall contain a description of the noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and the steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

Compliance with these requirements does not relieve the Permittee from responsibility to maintain continuous compliance with the terms and conditions of this permit or the resulting liability for failure to comply.

F. Maintaining a Copy of This Permit

A copy of this permit shall be kept at the facility and be made available upon request to Ecology inspectors.

G. Notification of Dissolved Oxygen Concentration Below 85% of Ambient Saturation

The Permittee is required to notify the Department immediately if monitoring at the approved location(s) reveals the oxygen concentration is below 85% of saturation for the ambient temperature and barometric pressure at the time of sampling.

S4. SAMPLING & ANALYSIS PLAN TO MONITOR FOR DISSOLVED OXYGEN

By **December 1, 2005**, the Permittee shall submit for approval a draft sampling and analysis plan to assess water quality impacts to the Columbia River from seepage beneath the log deck and bioswale. Upon written notice of approval the Permittee shall implement the plan. The plan shall at a minimum contain the following:

- Method for the estimation of water applied for climate control.
- Sampling methodology.
- Operation, calibration and maintenance procedures for the dissolved oxygen and pH test equipment.
- Identification and location of at least two upriver sampling sites and three sampling sites likely to be impacted. These sites are to be clearly marked in the field and on a site map.

- In the event dissolved oxygen saturation is below 85% for three consecutive months the Permittee is required to contact the Department to determine if additional monitoring is required.

S5. SOLID WASTE DISPOSAL

A. Solid Waste Handling

The Permittee shall handle and dispose of all solid waste material in such a manner as to prevent its entry into State ground or surface water.

B. Leachate

The Permittee shall not allow leachate from its solid waste material to enter State waters without providing all known, available and reasonable methods of prevention, control and treatment (AKART), nor allow such leachate to cause violations of the State Surface Water Quality Standards, Chapter 173-201A WAC, or the State Ground Water Quality Standards, Chapter 173-200 WAC. The Permittee shall apply for a permit or permit modification as may be required for such discharges to State ground or surface waters.

C. Solid Waste Control Plan

The Permittee submitted a Solid Waste Control Plan to the Department in 1998. The Permittee shall submit for approval an updated plan no later than **August 1, 2006**. This updated plan shall include all solid wastes with the exception of those solid wastes regulated by Chapter 173-303 WAC (Dangerous Waste Regulations). The plan shall include at a minimum a description, source, generation rate, and disposal methods of these solid wastes. This plan shall not be at variance with any approved local solid waste management plan. Any proposed revision or modification of the solid waste handling plan must be submitted to the Department. The Permittee shall comply with the plan and any modifications thereof. The Permittee shall submit an update of the solid waste control plan with the application for permit renewal.

S6. SPILL CONTROL PLAN

The Permittee submitted a Stormwater Pollution Prevention and Spill Prevention Control and Countermeasures Plan to the Department on November 13, 2001. The Permittee hold a current Stormwater Permit with the Department. The Permittee is required review the Spill Control Plan at least annually and update, as needed. Changes to the plan shall be sent to the Department for approval. The plan and any supplements shall be followed throughout the term of the permit.

The updated Spill Control Plan shall include the following:

- A description of the reporting system which will be used to alert responsible managers and legal authorities in the event of a spill.
- A description of preventive measures and facilities (including an overall facility plot showing drainage patterns) which prevent, contain, or treat spills of these materials.
- A list of all oil and chemicals used, processed, or stored at the facility which may be spilled into State waters.

For the purpose of meeting this requirement, plans and manuals, or portions thereof, required by 33 CFR 154, 40 CFR 109, 40 CFR 110, 40 CFR Part 112, the Federal Oil Pollution Act of 1990, Chapter 173-181, and contingency plans required by Chapter 173-303 WAC may be submitted.

S7. OUTFALL RENOVATION

A. Draft Plan

The Permittee shall submit for approval a draft plan to repair the diffuser no later than **January 31, 2007**.

B. Notice of Completion of Renovation

The Permittee shall complete the renovation as per the approved plan and shall provide the Department with written notice of renovation completion by **January 31, 2008**.

GENERAL CONDITIONS

G1. SIGNATURE AUTHORIZATION/DELEGATION

All applications, reports, or information submitted to the Department shall be signed and certified.

- A. All permit applications shall be signed by either a responsible corporate officer of at least the level of vice president of a corporation, a general partner of a partnership, or the proprietor of a sole proprietorship.
- B. All reports required by this permit and other information requested by the Department shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 - 1. The authorization is made in writing by a person described above and submitted to the Department.
 - 2. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)
- C. Changes to authorization. If an authorization under paragraph B.2 above is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph B.2 above must be submitted to the Department prior to or together with any reports, information, or applications to be signed by an authorized representative.
- D. Certification. Any person signing a document under this section shall make the following certification:

I certify under penalty of law, that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information,

including the possibility of fine and imprisonment for knowing violations.

G2. RIGHT OF INSPECTION AND ENTRY

The Permittee shall allow an authorized representative of the Department, upon the presentation of credentials and such other documents as may be required by law:

- A. To enter upon the premises where a discharge is located or where any records must be kept under the terms and conditions of this permit.
- B. To have access to and copy - at reasonable times and at reasonable cost - any records required to be kept under the terms and conditions of this permit.
- C. To inspect - at reasonable times - any facilities, equipment (including monitoring and control equipment), practices, methods, or operations regulated or required under this permit.
- D. To sample or monitor - at reasonable times - any substances or parameters at any location for purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act.

G3. PERMIT ACTIONS

This permit may be modified, revoked and reissued, or terminated either at the request of any interested person (including the Permittee) or upon the Department's initiative. However, the permit may only be modified, revoked and reissued, or terminated for the reasons specified in 40 CFR 122.62, 122.64 or WAC 173-220-150 according to the procedures of 40 CFR 124.5.

- A. The following are causes for terminating this permit during its term, or for denying a permit renewal application:
 - 1. Violation of any permit term or condition.
 - 2. Obtaining a permit by misrepresentation or failure to disclose all relevant facts.
 - 3. A material change in quantity or type of waste disposal.
 - 4. A determination that the permitted activity endangers human health or the environment or contributes to water quality standards violations and can only be regulated to acceptable levels by permit modification or termination [40 CFR part 122.64(3)].
 - 5. A change in any condition that requires either a temporary or permanent reduction or elimination of any discharge or sludge use or disposal practice controlled by the permit [40 CFR part 122.64(4)].
 - 6. Nonpayment of fees assessed pursuant to RCW 90.48.465.

7. Failure or refusal of the Permittee to allow entry as required in RCW 90.48.090.
- B. The following are causes for modification but not revocation and reissuance except when the Permittee requests or agrees:
1. A material change in the condition of the waters of the State.
 2. New information not available at the time of permit issuance that would have justified the application of different permit conditions.
 3. Material and substantial alterations or additions to the permitted facility or activities which occurred after this permit issuance.
 4. Promulgation of new or amended standards or regulations having a direct bearing upon permit conditions, or requiring permit revision.
 5. The Permittee has requested a modification based on other rationale meeting the criteria of 40 CFR part 122.62.
 6. The Department has determined that good cause exists for modification of a compliance schedule, and the modification will not violate statutory deadlines.
 7. Incorporation of an approved local pretreatment program into a municipality's permit.
- C. The following are causes for modification or alternatively revocation and reissuance:
1. Cause exists for termination for reasons listed in A1 through A7, of this section, and the Department determines that modification or revocation and reissuance is appropriate.
 2. The Department has received notification of a proposed transfer of the permit. A permit may also be modified to reflect a transfer after the effective date of an automatic transfer (General Condition G8) but will not be revoked and reissued after the effective date of the transfer except upon the request of the new Permittee.

G4. REPORTING PLANNED CHANGES

The Permittee shall, as soon as possible, but no later than 60 days prior to the proposed changes, give notice to the Department of planned physical alterations or additions to the permitted facility, production increases, or process modification which will result in: 1) the permitted facility being determined to be a new source pursuant to 40 CFR 122.29(b); 2) a significant change in the nature or an increase in quantity of pollutants discharged; or 3) a significant change in the Permittee's sludge use or disposal practices. Following such notice, and the submittal of a new application or supplement to the existing application, along with required engineering plans and reports, this permit may be modified, or revoked and reissued pursuant to 40 CFR 122.62(a) to specify and limit any pollutants not previously limited. Until such modification is effective, any new or increased discharge in excess of permit limits or not specifically authorized by this permit constitutes a violation.

G5. PLAN REVIEW REQUIRED

Prior to constructing or modifying any wastewater control facilities, an engineering report and detailed plans and specifications shall be submitted to the Department for approval in accordance with Chapter 173-240 WAC. Engineering reports, plans, and specifications shall be submitted at least 180 days prior to the planned start of construction unless a shorter time is approved by Ecology. Facilities shall be constructed and operated in accordance with the approved plans.

G6. COMPLIANCE WITH OTHER LAWS AND STATUTES

Nothing in this permit shall be construed as excusing the Permittee from compliance with any applicable Federal, State, or local statutes, ordinances, or regulations.

G7. DUTY TO REAPPLY

The Permittee shall apply for permit renewal at least 1 year prior to the specified expiration date of this permit.

G8. TRANSFER OF THIS PERMIT

In the event of any change in control or ownership of facilities from which the authorized discharge emanate, the Permittee shall notify the succeeding owner or controller of the existence of this permit by letter, a copy of which shall be forwarded to the Department.

A. Transfers by Modification

Except as provided in paragraph B below, this permit may be transferred by the Permittee to a new owner or operator only if this permit has been modified or revoked and reissued under 40 CFR 122.62(b)(2), or a minor modification made under 40 CFR 122.63(d), to identify the new Permittee and incorporate such other requirements as may be necessary under the Clean Water Act.

B. Automatic Transfers

This permit may be automatically transferred to a new Permittee if:

1. The Permittee notifies the Department at least 30 days in advance of the proposed transfer date.
2. The notice includes a written agreement between the existing and new Permittee's containing a specific date transfer of permit responsibility, coverage, and liability between them.
3. The Department does not notify the existing Permittee and the proposed new

Permittee of its intent to modify or revoke and reissue this permit. A modification under the subparagraph may also be minor modification under 40 CFR 122.63. If this notice is not received, the transfer is effective on the date specified in the written agreement.

G9. REDUCED PRODUCTION FOR COMPLIANCE

The Permittee, in order to maintain compliance with its permit, shall control production and/or all discharges upon reduction, loss, failure, or bypass of the treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

G10. REMOVED SUBSTANCES

Collected screenings, grit, solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall not be resuspended or reintroduced to the final effluent stream for discharge to State waters.

G11. DUTY TO PROVIDE INFORMATION

The Permittee shall submit to the Department, within a reasonable time, all information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The Permittee shall also submit to the Department upon request, copies of records required to be kept by this permit.

G12. OTHER REQUIREMENTS OF 40 CFR

All other requirements of 40 CFR 122.41 and 122.42 are incorporated in this permit by reference.

G13. ADDITIONAL MONITORING

The Department may establish specific monitoring requirements in addition to those contained in this permit by administrative order or permit modification.

G14. PAYMENT OF FEES

The Permittee shall submit payment of fees associated with this permit as assessed by the Department.

G15. PENALTIES FOR VIOLATING PERMIT CONDITIONS

Any person who is found guilty of willfully violating the terms and conditions of this permit shall be deemed guilty of a crime, and upon conviction thereof shall be punished by a fine of up to \$10,000 and costs of prosecution, or by imprisonment in the discretion of the court. Each day upon which a willful violation occurs may be deemed a separate and additional violation.

Any person who violates the terms and conditions of a waste discharge permit shall incur, in addition to any other penalty as provided by law, a civil penalty in the amount of up to \$10,000 for every such violation. Each and every such violation shall be a separate and distinct offense, and in case of a continuing violation, every day's continuance shall be deemed to be a separate and distinct violation.

G16. UPSET

Definition – “Upset” means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the Permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of the following paragraph are met.

A Permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that: 1) an upset occurred and that the Permittee can identify the cause(s) of the upset; 2) the permitted facility was being properly operated at the time of the upset; 3) the Permittee submitted notice of the upset as required in Special Condition S3.E; and 4) the Permittee complied with any remedial measures required under Special Condition S4.C of this permit.

In any enforcement proceeding the Permittee seeking to establish the occurrence of an upset has the burden of proof.

G17. PROPERTY RIGHTS

This permit does not convey any property rights of any sort, or any exclusive privilege.

G18. DUTY TO COMPLY

The Permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

G19. TOXIC POLLUTANTS

The Permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if this permit has not yet been modified to incorporate the requirement.

G20. PENALTIES FOR TAMPERING

The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 2 years per violation, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this Condition, punishment shall be a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or by both.

G21. REPORTING ANTICIPATED NON-COMPLIANCE

The Permittee shall give advance notice to the Department by submission of a new application or supplement thereto at least 180 days prior to commencement of such discharges, of any facility expansions, production increases, or other planned changes, such as process modifications, in the permitted facility or activity which may result in noncompliance with permit limits or conditions. Any maintenance of facilities, which might necessitate unavoidable interruption of operation and degradation of effluent quality, shall be scheduled during non-critical water quality periods and carried out in a manner approved by the Department.

G22. REPORTING OTHER INFORMATION

Where the Permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department, it shall promptly submit such facts or information.

G23. COMPLIANCE SCHEDULES

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.